

Meeting Date: 9/16/08

AGENDA REPORT

City of Santa Clara, California

Agenda Item # 7A-3



Date: September 10, 2008
To: City Manager for Council Action
From: Director of Public Works / City Engineer
Subject: Resolution ordering the vacation of a public utility easement and two (2) wire clearance easements located at 3510-3530 De La Cruz Boulevard (APN 101-09-026)

EXECUTIVE SUMMARY:

The above-referenced property is encumbered with a public utility easement and two (2) wire clearance easements that are no longer needed. The owner is requesting that the City vacate said easements to clear the encumbrance on the title of said property. The Engineering Department has correspondence from all agencies having interest in the easements agreeing to said vacation.

A Resolution ordering the vacation of a public utility easement and two (2) wire clearance easements has been prepared and approved for form by the City Attorney.

ADVANTAGES AND DISADVANTAGES OF ISSUE:

The vacation will remove an unnecessary encumbrance from the property's title.

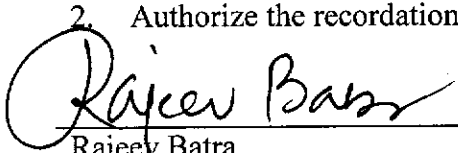
ECONOMIC/FISCAL IMPACT:

There is no additional cost to the City other than staff time and expense.

RECOMMENDATION:

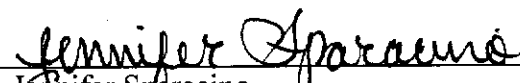
That the Council:

1. Approve and adopt the Resolution ordering the vacation of a public utility easement and two (2) wire clearance easements at 3510-3530 De La Cruz Boulevard (APN 101-09-026; S.C. 16,877) to North Valley Baptist Church of Santa Clara; and
2. Authorize the recordation thereof.


Rajeev Batra

Director of Public Works / City Engineer

APPROVED:


Jennifer Sparacino
City Manager

Documents Related to this Report:

- 1) Resolution

Rev. 02/26/08

**RECORD WITHOUT FEE
PURSUANT TO GOV'T CODE SECTION 6103**

Recording Requested by:
Office of the City Attorney
City of Santa Clara, California

When Recorded, Mail to:
Office of the City Clerk
City of Santa Clara
1500 Warburton Avenue
Santa Clara, CA 95050

Form per Gov't Code Section 27361.6

[SPACE ABOVE THIS LINE FOR RECORDER'S USE]

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY OF SANTA CLARA,
CALIFORNIA, ORDERING THE VACATION OF A
PUBLIC UTILITY EASEMENT AND TWO WIRE
CLEARANCE EASEMENTS LOCATED AT 3510-3530 DE
LA CRUZ BOULEVARD [APN 101-09-026 (2007-08)]**

BE IT RESOLVED BY THE CITY OF SANTA CLARA, CALIFORNIA, AS FOLLOWS:

WHEREAS, the City of Santa Clara currently possesses the easements described in Exhibits A and B, which Exhibits are incorporated herein by reference, and which were recorded in Book 7580 of Official Records, at Page 42, Santa Clara County Records, against APN 101-09-026, commonly known as 3510-3530 De La Cruz Boulevard, Santa Clara, California;

WHEREAS, pursuant to Section 8333 of the California Streets and Highways Code, the City Council "may summarily vacate a public service easement" if:

(a) The easement has not been used for the purpose for which it was dedicated or acquired for five consecutive years immediately preceding the proposed vacation;

(b) The date of dedication or acquisition is less than five years, and more than one year, immediately preceding the proposed vacation, and the easements was not used continually since that date; and/or

(c) The easement has been superseded by relocation, or determined to be excess by the easement holder, and there are no other public facilities located within the easement.

**NOW THEREFORE, BE IT FURTHER RESOLVED BY THE CITY COUNCIL OF THE
CITY OF SANTA CLARA, CALIFORNIA, AS FOLLOWS:**

1. The public service easements described in Exhibits A and B are unnecessary for present or prospective use and therefore fall with the provisions of Section 8333(a) of the California Streets and Highways Code,
2. That the following public service easements described in Exhibits A and B in the City are hereby vacated pursuant to California Streets and Highways Code Section 8333(a),

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3. The vacation hereby releases all easement rights referred to in Exhibits A and B to the North Valley Baptist Church of Santa Clara.

4. Constitutionality, severability. If any section, subsection, sentence, clause, phrase, or word of this resolution is for any reason held by a court of competent jurisdiction to be unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of the resolution. The City of Santa Clara hereby declares that it would have passed this resolution and each section, subsection, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more section(s), subsection(s), sentence(s), clause(s), phrase(s), or word(s) be declared invalid.

I HEREBY CERTIFY THE FOREGOING TO BE A TRUE COPY OF A RESOLUTION PASSED AND ADOPTED BY THE CITY OF SANTA CLARA, CALIFORNIA, AT A REGULAR MEETING THEREOF HELD ON THE ____ DAY OF _____, 2008, BY THE FOLLOWING VOTE:

AYES: COUNCILORS:

NOES: COUNCILORS:

ABSENT: COUNCILORS:

ABSTAINED: COUNCILORS:

ATTEST: _____
ROD DIRIDON, JR.
CITY CLERK
CITY OF SANTA CLARA

Attachments Incorporated by Reference:
1. Exhibits A and B

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EXHIBIT "A"

Legal Description

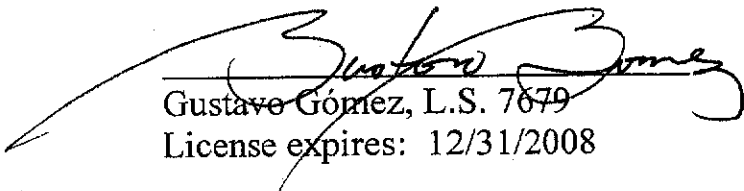
**A PUBLIC UTILITY EASEMENT AND
WIRE CLEARANCE EASEMENTS**

**At 3510 – 3530 De La Cruz Boulevard
Santa Clara, California**

All of that certain 10-foot wide public utility easement (P.U.E.) and two (2) 5-foot wide wire clearance easements, one on each side of said 10-foot wide P.U.E., as described in that certain document filed for record in Book 7580 of Official Records, at Page 42, Santa Clara County Records, within Parcel 5 as shown on that certain Parcel Map filed for record in Book 225 of Maps, at Page 32, said County Records.

A plat showing the above described Public Utility Easement and the wire clearance easements is attached hereto and made a part hereof as EXHIBIT "B" (Tracing No. 11,582-A).

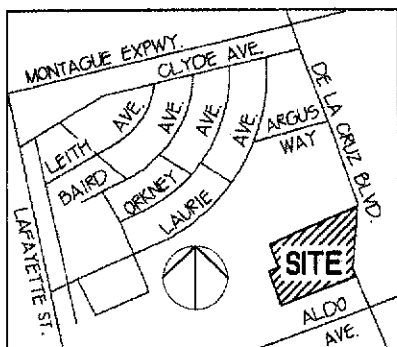
This description was prepared by me or under my direction in conformance with the Land Surveyor's Act.


Gustavo Gómez, L.S. 7679
License expires: 12/31/2008



Date: 8/25/2008

EXHIBIT "A"



LOCATION MAP
NTS

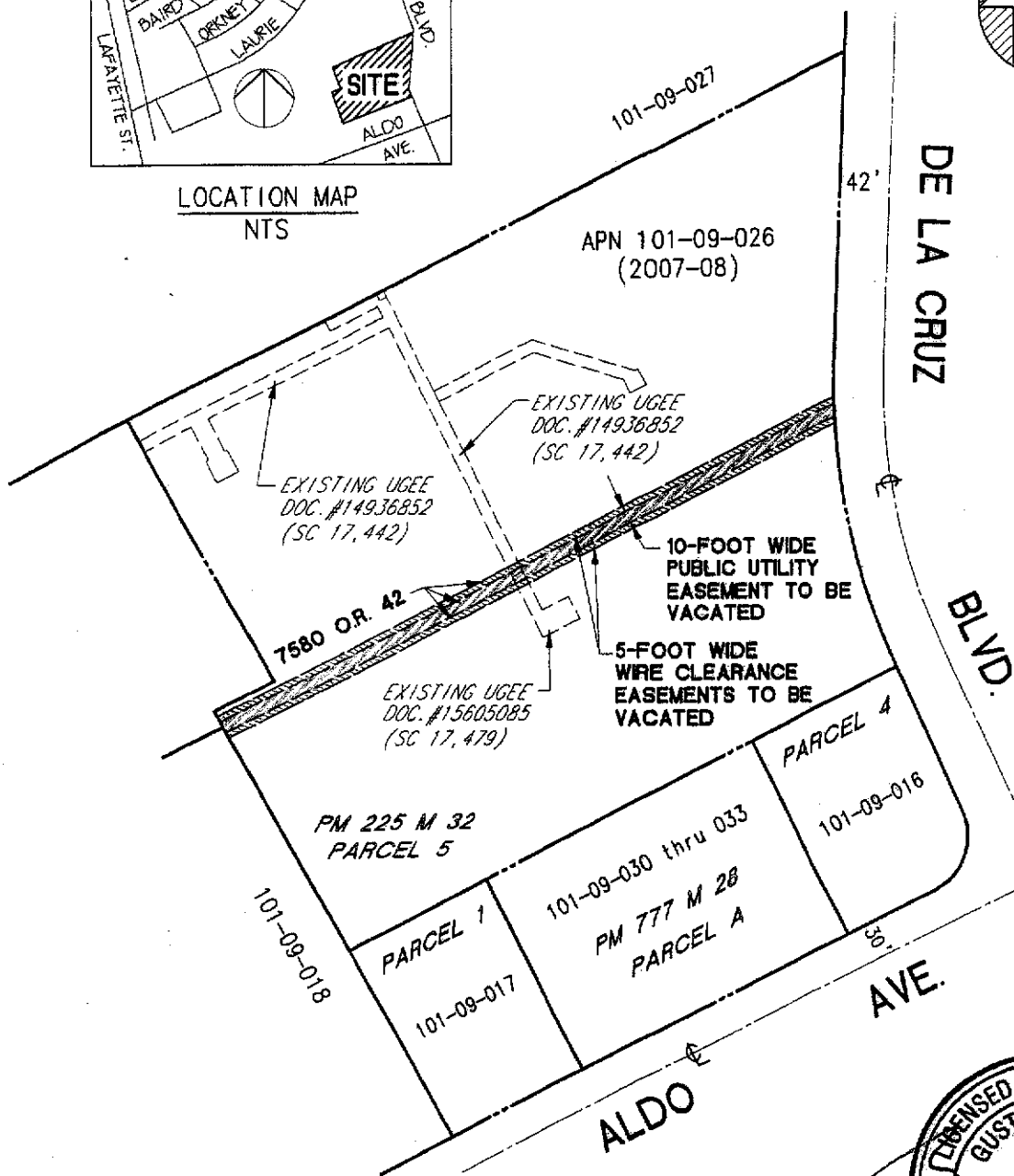
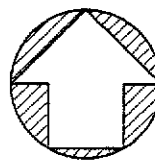


EXHIBIT "B"



8/22/2008

K:\...\AUTOCAD\LPD\NELSON\SC16877 RES vacate.DWG		
Revised		
Drawn By	ND	8-11-08
Checked By	DJM	8-13-08
Approved By	G. Gomez	Date 8-22-08
RAJEEV BATRA		
DIRECTOR OF PUBLIC WORKS/CITY ENGINEER		

CITY OF SANTA CLARA
RESOLUTION
 (ORDERING THE VACATION OF PUBLIC EASEMENT)
 3510 - 3530 DE LA CRUZ BLVD.

Scale	1"=150'
Ref.	SC 16,877
Tracing No.	11,582-A

11,582-A

CITY OF SANTA CLARA
AGENDA MATERIAL ROUTE SHEET

Council Date: 9-16-2008

SUBJECT: S.C. 16,877 - Resolution
3510-3530 De La Cruz Boulevard

CERTIFICATION

The proposed Resolution
Regarding the vacation of a 10-foot wide public utility easement and two (2) wire clearance easements within
the subject property has been reviewed and is hereby certified.

PUBLICATION REQUIRED:

The attached Notice/Resolution/Ordinance is to be published _____ time(s) at least _____ days before the
scheduled meeting/public hearing/bid opening/etc., which is scheduled for _____, 200__.

AUTHORITY SOURCE FOR PUBLICATION REQUIREMENT:

Federal Codes:

Title _____ U.S.C. § _____
(Titles run 1 through 50)

California Codes:

Code _____ § _____
(I.e., Government, Street and Highway, Public Resources)

Federal Regulations:

Title _____ C.F.R. § _____
(Titles run 1 through 50)

California Regulations:

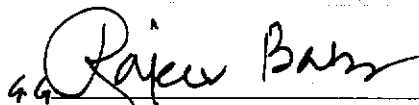
Title _____ California Code of Regulations § _____
(Titles run 1 through 28)

City

City Charter § _____ (I.e., 1310. Public Works Contracts. Notice published at least once at least ten days before bid opening)

City Code § _____

1. As to City Functions, by



Department Head

2. As to Legality, by



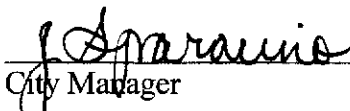
City Attorney's Office / CAO Assignment No 08. 1251

3. As to Environmental
Impact Requirements, by



Director of Planning and Inspection

4. As to Substance, by



City Manager

Revision Date June 7, 2005